

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nathaniel Flack	Team: Squad #3	CCRB Case #: 201704679	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 06/10/2017 8:10 PM	Location of Incident: Courtlandt Avenue between 155th Street and 156th Street	Precinct: 44	18 Mo. SOL 12/10/2018	EO SOL 12/10/2018	
Date/Time CV Reported Mon, 06/12/2017 2:28 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/12/2017 2:28 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Joseph Martinez	10535	947221	PSA 7

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jason Franquiz	09067	953881	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A.POM Joseph Martinez	Off. Language: Police Officer Joseph Martinez made remarks to § 87(2)(b) based on race.	

### Case Summary

§ 87(2)(b) filed this complaint with the CCRB via telephone on June 12, 2017.

On June 10, 2017 at approximately 8:10 pm, § 87(2)(b) was pulled over by PO Joseph Martinez and PO Jason Franquiz of Police Service Area 7 while driving the wrong way on Courtland Avenue between 155<sup>th</sup> and 156<sup>th</sup> Streets in the Bronx. When § 87(2)(b) began to exit his vehicle in order to speak to the officers, PO Martinez allegedly said to him, “Get back in the car, nigga. I don’t know what you got,” or, “Get back in the car, nigga. I don’t know what you got” (**Allegation A**). § 87(2)(b) was released with a summons for § 87(2)(b).

Video footage of the block where the incident occurred was obtained from NYCHA, but did not show the incident. § 87(2)(g)

### Mediation, Civil, and Criminal Histories

- § 87(2)(b) rejected mediation § 87(2)(b)
- On July 18, 2017, a FOIL request to the Office of the Comptroller confirmed that no Notice of Claim has been filed for this incident (Board Review 12).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- § 87(2)(b) previously filed CCRB complaint number § 87(2)(b)
- This is the first CCRB complaint filed against PO Martinez in 9 years with the NYPD (Board Review 07).

### Officer Identification

- While § 87(2)(b) described PO Martinez’s partner as a female in his phone statement (Board Review 02) and interview (Board Review 01), PO Martinez (Board Review 04) and PO Franquiz (Board Review 05) were consistent that they were partners on June 10, 2017, which was corroborated by both of their Memo Books (Board Review 08 and Board 09). Furthermore, § 87(2)(b) stated in his intake statement (Board Review 03) that he was unsure of PO Martinez’s partner’s gender. § 87(2)(g)

### Findings and Recommendations

#### Allegations Not Pleaded

- § 87(2)(g)
- In his telephone statement (Board Review 02), § 87(2)(b) said that PO Martinez asked him, “What the fuck you doing?” However, in his verified statement (Board Review 01),

§ 87(2)(b) specifically denied that PO Martinez used any profanity. § 87(2)(g)

**Allegation A: Police Officer Joseph Martinez made remarks to § 87(2)(b) based on race.**

§ 87(2)(b) said in his interview (Board Review 01) that as PO Martinez and PO Franquiz walked toward his car, he opened the door so that he could exit the vehicle and speak to the officers. As he was preparing to step out of the vehicle, PO Martinez said either, “Get back in the car, my nigga,” or, “Get back in the car, nigga,” followed by, “I don’t know what you got,” two or three times.

In his intake statement (Board Review 03), § 87(2)(b) said that PO Martinez had told him, “Don’t get out the car nigga. I don’t know what you got.” In his telephone statement (Board Review 02), § 87(2)(b) said the specific phrase was, “Get back in your car, my nigga. I don’t know what you got.”

PO Martinez (Board Review 04) said in his interview that § 87(2)(b) never opened his door or attempted to exit his car during the incident. PO Martinez denied using the word “nigga” when speaking to § 87(2)(b) and denied saying to § 87(2)(b) “Get back in the car, my nigga,” or issuing any other command to remain in his vehicle. PO Martinez could not say whether he ever used the word in a casual slang form.

PO Franquiz (Board Review 05) said in his interview that § 87(2)(b) opened his door and attempted to exit his vehicle during the stop, and that PO Martinez said, “Get back in the vehicle,” or, “Get back in the car,” which § 87(2)(b) complied with. PO Franquiz did not recall ever hearing PO Martinez use the word “nigga” when speaking to § 87(2)(b) or telling § 87(2)(b) “Don’t get out the car, nigga. I don’t know what you got.”

§ 87(2)(g)

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Squad: 3

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date